

§ 17.74 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* Collection action shall be suspended temporarily on a claim when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, having consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a claim when the debtor owns no substantial equity in realty and is presently unable to make payment on the Department's claim or effect a compromise, but his future prospects justify retention of the claim for periodic review and action and (1) the applicable statute of limitations has been tolled or started anew or (2) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt.

(b) *Termination of collection action.* Collection action may be terminated and the Department file closed for the following reasons: (1) No substantial amount can be collected; (2) the debtor cannot be located; (3) the cost will exceed recovery; (4) the claim is legally without merit; or (5) the claim cannot be substantiated by evidence.

§ 17.75 Referral to GAO or Justice Department.

(a) *Claims referred.* Claims which cannot be collected, compromised, or terminated in accordance with 4 CFR parts 101 to 105 will be referred to the General Accounting Office in accordance with 31 U.S.C. 71 or to the Department of Justice if this Department has been granted an exception from referrals to the General Accounting Office. Also, if there is doubt as to whether collection action should be suspended or terminated on a claim, the claim may be referred to the General Accounting Office for advice. When recovery of a judgment is prerequisite to imposition of administrative sanctions, the claim may be referred to the Justice Department for litigation even though termination of collection activity might otherwise be considered.

(b) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and in any event, well within the statute of limitations for bringing suit against the debtor.

§ 17.76 Disclosure to a consumer reporting agency.

(a) *Definition.* For purposes of this section, individual means a natural person.

(b) *Conditions for disclosure.* The Secretary may disclose to a Consumer Reporting Agency information from a system of records to the effect that an individual is responsible for a debt. Before doing so, the Secretary will ensure that:

(1) The notice for the system of records required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) indicates that the information in the system may be disclosed to a Consumer Reporting Agency;

(2) There has been Departmental review of the debt and a determination that the debt is valid and overdue;

(3) There has been written notice sent to the individual informing the individual:

(i) That payment of the debt is overdue;

(ii) That the Department intends to disclose to a Consumer Reporting Agency, within not less than 60 days after sending the notice, that the individual is responsible for the debt;

(iii) Of the specific information intended to be disclosed to the Consumer Reporting Agency; and

(iv) Of the rights of the individual to a full explanation of the debt, to dispute any information in the records of the Department concerning the debt, as determined by the Secretary, and to administrative appeal or review with respect to the debt; and

(4) The individual has neither repaid or agreed to repay the debt under a written repayment plan signed by the individual and agreed to by the Secretary nor has filed for review of the claim under paragraph (c) of this section.

(c) *Limitations on disclosure.* The Secretary may not disclose information to a Consumer Reporting Agency unless the Department has:

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(1) Obtained satisfactory assurances from each Consumer Reporting Agency that the agency is complying with the Fair Credit Reporting Act (15 U.S.C. 1681) and any other Federal laws governing the provision of consumer credit information;

(2) Provided, upon request by the individual alleged to be responsible for the claim, the opportunity to review the claim, including an opportunity for reconsideration of the initial decision on the claim; and

(3) Taken reasonable action to locate an individual for whom the Secretary does not have a current address to send a notice under paragraph (b)(3) of this section.

(d) *Additional responsibilities of the Department.* In providing information to a Consumer Reporting Agency, the Department will only disclose:

(1) Information necessary to establish the identity of the individual, including name, address and taxpayer identification number;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

In all cases, the Department will notify each Consumer Reporting Agency to which the original disclosure was made of any substantial change in the condition or amount of the claim. This includes promptly correcting or verifying information about the claim requested by the Consumer Reporting Agency.

[49 FR 32350, Aug. 14, 1984]

§ 17.77 Contracts for collection services.

The Secretary may enter into a contract or contracts for collection services to recover indebtedness owed the Department. Any such contract will include the following provisions:

(a) The Secretary retains the authority to resolve a dispute, compromise a claim, end collection action or refer a matter to the Attorney General to bring civil action;

(b) The person contracted with by the Secretary is subject to the Privacy Act of 1974 to the extent provided for in 5 U.S.C. 552a(m), the section on government contractors;

(c) The person contracted with by the Secretary is subject to State and Fed-

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eral laws governing debt collection practices, such as the Debt Collection Practices Act, 15 U.S.C. 1692; and

(d) The person contracted with agrees to provide to the Secretary, if asked to return the file to the Department so that the Secretary may refer the account to the Department of Justice for litigation, any data contained in the files relating to actions previously taken to collect the debt, the current address of the debtor, as well as the current credit data of the debtor or any current other information requested and available.

[49 FR 32350, Aug. 14, 1984]

ADMINISTRATIVE OFFSET PROVISIONS

SOURCE: Sections 17.100 through 17.118, 49 FR 32351, appear at Aug. 14, 1984, unless otherwise noted.

§ 17.100 Scope.

(a) The standards set forth in §§ 17.100 through 17.118 are the Department's procedures for the collection of money owed to the government by means of administrative offset. These procedures apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority. These procedures will not be used when a statute provides its own collection procedure, for procedures for grant reduction as a remedial action in grant programs (including the CDBG program), when explicitly prohibited by a statute, or when the United States has a judgment against the debtor. Unless otherwise provided for by statute, these procedures do not apply to an agency of the United States, a State government, or unit of general local government. In addition, these procedures do not apply to debts arising under the Internal Revenue Code of 1954 (26 U.S.C. 1-9602), the Social Security Act (42 U.S.C. 301-1397f), or the tariff laws of the United States.

(b) The Secretary will use administrative offset to collect claims which are certain in amount in every instance in which collection is determined to be feasible and not prohibited by law. The Secretary will determine